

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JESSE ST. JOHN,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:07CV1559 CDP
)	
TROY STEELE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by petitioner Jesse St. John. The Court referred this matter to United States Magistrate Judge Mary Ann L. Medler for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On March 17, 2008, Judge Medler filed her recommendation that petitioner's habeas petition should be denied. Petitioner moves for leave to object to the Report and Recommendation out of time. I will grant his motion and consider his objections. I have conducted a de novo review of the entire file, including all matters relevant to the petition.

Petitioner first argues that Judge Medler did not consider the merits of his claims. This objection is overruled. Judge Medler correctly determined that both

of petitioner's claims were exhausted and not procedurally defaulted, so she proceeded to consider the merits by applying the standard of review set out in the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2254, and later clarified by the United States Supreme Court in Williams v. Taylor, 529 U.S. 362, 412 (2000). To the extent that petitioner is objecting to the type of review required by the statute and the Supreme Court, that objection will also be overruled as this Court is obligated to follow the law.

Petitioner's remaining objections merely restate the arguments raised in his habeas petition. After careful consideration, I will adopt and sustain Judge Medler's Report and Recommendation in its entirety. For both ineffective assistance of counsel claims raised in the petition, Judge Medler correctly decided that the state-court decision was not contrary to federal law, was a reasonable application of federal law, and that the factual issues were decided reasonably in light of the evidence presented. As such, Judge Medler correctly determined that petitioner was not entitled to habeas relief on either ground of the petition. Petitioner's objections to the Report and Recommendation are overruled.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d


518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing, I will not issue a certificate of appealability. Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to file objections out of time [#17] is granted.

IT IS FURTHER ORDERED that the Report and Recommendation filed on March 17, 2008 [#14] is adopted and sustained in its entirety, and the Petition for Writ of Habeas Corpus [#1] is denied.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 12th day of June, 2008.